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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,059	10/29/2003	Josef Dietl	13913-065001 / 2002P10023	7763
32864	7590	03/11/2008	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			WASEL, MOHAMED A	
			ART UNIT	PAPER NUMBER
			2154	
			MAIL DATE	DELIVERY MODE
			03/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/698,059	Applicant(s) DIETL, JOSEF	
	Examiner MOHAMED WASEL	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 October 2003.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/29/2003.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

This action is responsive to application filed on October 29, 2003. Claims 1-20 are pending and presented for examination.

Title

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is directed to a computer program product per se (**software program(s)**), which do not fall within the four statutory classes of 101. Applicant is advised to direct the claim language to a computer program **stored** on a computer-readable **storage** medium (hard disk, CD-ROM or the like) to overcome the 101 rejection, considering that there is sufficient support on the disclosure.

In addition, claim 1 recites the limitation "**tangibly** embodied in an **information carrier**" in line 1 of the claim. Applicant is advised to amend the claim language to exclude the word "tangibly".

Furthermore, upon further review of the Applicant's original disclosure, an information carrier is described

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to be a machine-readable storage device or a **propagated signal**. A product is a tangible physical article or object, some form of matter, **which a signal is not**. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. **A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101.**

Appropriate corrections are required to clarify the claim subject matter.

Claims 2-7 are rejected under the same rationale as claim 1 due to their dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Fascenda, US Patent No. 6,560,604.

1. As per claim 1, Fascenda teaches a computer program product, tangibly embodied in an information carrier, for selecting a renderer, the computer program product being operable to cause data processing apparatus to perform operations comprising:

receiving a client identifier that identifies a client (**Fig. 11, element 1104, col. 3 lines 26-44**);

comparing the client identifier with each of one or more client templates, each client template being associated with a renderer in a plurality of renderers (**col. 11 lines 9-26, Abstract**);

generating a score for each comparison, the score reflecting the similarity between the client identifier and the client template (**col. 6 lines 33-38**), and

selecting, based on the score, a renderer from the plurality of renderers for use in communication with the client (**col. 11 lines 9-26**).

2. As per claim 2, Fascenda teaches the product wherein the score is one of at least three different possible scores (**col. 6 lines 33-38**).

3. As per claim 3, Fascenda teaches the product wherein each score is generated by computing a number of matching characters in a client template divided by a number of characters in the client identifier (**col. 16 lines 1-31**).

4. As per claim 4, Fascenda teaches the product wherein the renderer is selected based on the highest generated score (**col. 11 lines 9-26**).

5. As per claim 5, Fascenda teaches the product wherein the renderer is selected based the first generated score that meets or exceeds a minimum score (**col. 11 lines 9-26**).

6. As per claim 6, Fascenda teaches the product wherein the renderer is selected based on first generated score that meets the maximum score (**col. 11 lines 9-26**).

7. As per claim 7, Fascenda teaches the product wherein the client identifier is a user agent identifier that identifies a Web browser running on the client (**col. 2 lines 5-14**).

8. Claims 8-14 are rejected under the same rationale as the set of claims 1-7.

9. Claims 15-20 are rejected under the same rationale as the set of claims 1-6.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form PTO-892 (Notice of Reference Cited) for a list of relevant prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Wasel whose telephone number is (571) 272-2669. The examiner can normally be reached on Mon-Fri (8:00 am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mohamed Wasel/
Patent Examiner
February 20, 2008

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2154